IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 232-M of 2003
Date of Decision : April 29, 2009

Gurinder Kaur

....Appellant

Versus

Kuldeep Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. Kanwaljit Singh, Senior Advocate with
Mr. Harmanjit Singh, Advocate

Mr. Gulshan Sharma, Advocate

T.P.S. MANN, J.

Petition filed by the respondent-husband under Section 12 of the Hindu Marriage Act for dissolution of his marriage with the appellant-wife was accepted by Additional District Judge, Fatehgarh Sahib on 1.8.2003 and their marriage was declared a nullity and, therefore, voidable.

The present appeal filed by the wife was dismissed on 11.10.2006 for want of prosecution. An application was, thereafter, filed for recalling the order, which application was disposed of on 13.12.2006 by restoring the appeal to its original number. On 8.1.2009, after hearing learned counsel for the parties, this Court accepted the appeal, set aside the impugned decree and dismissed the petition filed by the respondent under Section 12 of the Hindu Marriage Act. However, later on, C.M. No.2085-CII of 2009 was filed on behalf of the respondent for recalling

the order dated 8.1.2009 on the ground that the parties were prepared to compromise the matter. Besides, parties were willing to obtain divorce by mutual consent after converting the petition under Section 12 of the Act to that under Section 13-B of the Act. The said application has been allowed by an order of the even date and the appeal stands restored to its original number by recalling the order dated 8.1.2009. In the meanwhile, the appellant also filed C.M. Nos. 9882-83-CII of 2009, one for permission to convert petition under Section 12 of the Act to that under Section 13-B of the Act and the other for condoning the statutory period of six months' waiting period for disposal of the petition under Section 13-B of the Act. Vide an order of the even date, both these applications have also been allowed.

In view of the above, the petition under Section 12 of the Act stands converted to one under Section 13-B of the Act.

Separate statements of the parties have been recorded. In her statement, the appellant has submitted that she married the respondent on 1.3.1999 by way of *Anand Karaj* ceremony at village Balongi. However, on account of differences between them, they could not pull on together after 14.3.1999. Ever since then they were living separately from each other and there has been no resumption of cohabitation. On account of sincere efforts made by the parties they have been able to reconcile their differences and decided to file a petition for obtaining divorce by way of mutual consent. All the

disputes between the parties arising out of the marriage, including *Istri Dhan*/dowry, maintenance, permanent alimony, etc. stands settled. The respondent has already paid her an amount of Rs.3,00,000/- by way of full and final settlement of all her claims. As the parties were living separately from each other for the last ten years and also as the respondent had since re-married, she prayed that her marriage be dissolved by mutual consent. She also prayed for condoning the statutory period of six months for arriving at a final decision on the petition under Section 13-B of the Act. Before concluding, she also stated that in view of the compromise arrived at between the parties she was no more interested in prosecuting the contempt proceedings against the respondent.

Similarly, the respondent has made a statement fully endorsing the statement made by the appellant in his presence. He has also prayed that the marriage be dissolved by mutual consent. He has further prayed that statutory period of six months be waived off as he had filed petition under Section 12 of the Act about nine years earlier and the parties have been living separately for the last more than ten years.

It is an admitted fact that there has been no resumption of cohabitation between the appellant and the respondent after 14.3.1999. Ever since then they are living separately. They have now been able to reconcile their difference by agreeing to part company. In that regard

they have prayed for converting the petition under Section 12 of the Act to that under Section 13-B of the Act, besides, waiving off the statutory period of six months waiting period before final decision of the petition under Section 13-B of the Act. As mentioned above, the prayer made by the parties for waiving off the statutory period of six months waiting period stands allowed by this Court vide order of even date in view of the fact that the parties have been living separately for the last ten years and the petition under Section 12 of the Act was filed more than nine years earlier.

As per the settlement arrived at between the parties, the appellant has already received an amount of Rs.3,00,000/- by way of full and final settlement of all her claims. She has been gracious enough to state that in view of the compromise, she was no more interested in prosecuting the contempt proceedings against the respondent.

In view of the above, the Court considers it just and proper to dissolve the marriage of the parties by mutual consent under Section 13-B of the Act.

Resultantly, the petition under Section 13-B of the Hindu Marriage Act is accepted and the marriage of the parties is dissolved by a decree of divorce by mutual consent.

The appeal is, accordingly, disposed of.

(T.P.S.MANN)
JUDGE

April 29, 2009
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